

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

BLUE SPIKE, LLC,

*Plaintiff,*

V.

TEXAS INSTRUMENTS, INC.,

*Defendant.*

BLUE SPIKE, LLC,

*Plaintiff,*

V.

ACTV8, INC.,

*Defendant.*

Civil Action No. 6:12-CV-499 MHS

(LEAD CASE)

## JURY TRIAL DEMANDED

Civil Action No. 6:12-CV-582

(CONSOLIDATED WITH 6:12-CV-499)

## JURY TRIAL DEMANDED

## DECLARATION OF BRIAN SHUSTER

I, Brian Shuster, do hereby declare and state as follows:

1. I submit this Declaration in support of the Motion to Transfer filed by Defendant ACTV8, Inc. (“ACTV8”). I reviewed the Complaint filed against ACTV8 in this matter and understand that Plaintiff alleges infringement by ACTV8 of four U.S. patents by importing, making, using, offering for sale, and/or selling fingerprint-based biometric software, systems, and technology (“Accused Products”). I have personal knowledge of the facts set forth in this Declaration, except as otherwise stated. I am competent to testify as to all matters stated, and if called upon to do so, I would testify to the facts set forth in this Declaration.

2. I founded Defendant ACTV8 and an employed as ACTV8's Chief Executive Officer.

3. ACTV8 is a Delaware corporation, with offices in Beverly Hills, California, within the Central District of California, where it maintains corporate documents and employs all of its personnel.

4. No ACTV8 fact witnesses reside in the Eastern District of Texas. No source of proof with respect to ACTV8 is located in the Eastern District of Texas. ACTV8 does not employ anyone based in the Eastern District of Texas.

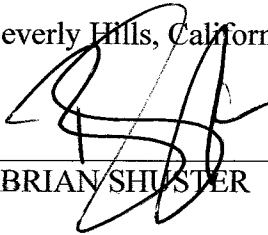
5. All of ACTV8's operations are located at its offices in Beverly Hills, California. ACTV8 has been located in Los Angeles County in the Central District of California since its incorporation in 2011. ACTV8's offices in Beverly Hills, California are the location of (a) the servers, technical infrastructure and manufacturing facility associated with the Accused Products; (b) ACTV8's technical documents relating to the Accused Products; (c) ACTV8's electronically stored information relating to the manufacture, use and/or sale of the Accused Products; (d) all of the documents relating to the research, design, development of the Accused products; (e) the majority of documents relating to the operation, marketing, advertising and sales of the Accused Products; and (f) all financial books, records, and accounting data relating to the revenues associated with the Accused Products. ACTV8 does not have any documents relating to the marketing and sales of Accused Products outside of Beverly Hills, California.

6. None of the file servers, documents, or electronically stored information relevant to the claims and defenses in this lawsuit is located in the Eastern District of Texas.

7. All foreseeable ACTV8 witnesses with information about the Accused Products and the claims and defenses in this lawsuit reside in the Central District of California, as all of ACTV8's employees are based in Beverly Hills, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 4<sup>th</sup> day of February, 2013, in Beverly Hills, California.

  
A handwritten signature in black ink, appearing to read "BRIAN SHUSTER", is written over a horizontal line.

BRIAN SHUSTER